

Supplemental Response to Office Action Mailed September 18, 2008
Serial No. 10/526,265; Filed March 2, 2005
Art Unit: 3682

REMARKS

This submission merely supplements the Remarks section of the Amendment filed December 18, 2008. Accordingly, no claims are amended, added, or cancelled herein, whereby claims 1-12 (claims 1-10 and new claims 11 and 12 which were presented in the Amendment filed December 18, 2008) are pending and presented for review. Favorable reconsideration and allowance are requested in light of the remarks which follow.

New Claims 11 and 12 (presented in the Amendment filed December 18, 2008)

As explained perhaps briefly in the *Rejections Under 35 U.S.C. § 112* section of the Amendment filed December 18, 2008, claims 11 and 12 are commensurate in scope with claims 1 and 9. Since claims 11 and 12 more closely conform with preferred U.S. practice, they were presented in an abundance of caution to further pursue the subject matter of claims 1 and 9, regardless of whether the 35 U.S.C. § 112 rejections of claims 1 and 9 were overcome.

Since claims 11 and 12 are commensurate in scope with claims 1 and 9, they are believed allowable for the same reasons, whereby the arguments relating to claims 1 and 9 are equally applicable here with respect to 11. Applicant incorporates by reference the entire Amendment filed December 18, 2008 and respectfully direct the Examiner's attention to the arguments made with respect to claims 1 and 9 for their corresponding applicability to claims 11 and 12. Such arguments are not repeated here in the interest of brevity.

Notwithstanding, Applicant cursorily points out that claim 11 is allowable because the cited prior art (the Shimada and Fervers patents) cannot disclose or suggest imbalance masses that are individually adjustable upon their respective imbalance shafts bearing them, such that changes of relative positions thereof establish *a magnitude of an overall centrifugal force resulting from the imbalance masses which is proportional to a speed of forward or backward motion of the soil compacting device*. That is because, instead, (i) the Shimada patent discloses the desirability of restricting a vibration exciter so that it cannot move forwardly or rearwardly at all, and (ii) the Fervers patent discloses the desirability of directing

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centrifugal forces upwardly in order to maintain the soil compacter at a standstill. It is therefore believed independent claim 11 is allowable over the cited prior art. Claim 12 is believed allowable as depending from allowable claim 11 as well as on its own merits.

CONCLUSION

Applicant asserts that claims 1-12 are in compliance with 35 U.S.C. §§ 102, 103, and 112, and each defines patentable subject matter. A Notice of Allowance is therefore respectfully requested. No fee is believed due with this communication. Nevertheless, should the Examiner consider any fees to be payable in conjunction with this or any future communication, the Director is authorized to direct payment of such fees, or credit any overpayment, to Deposit Account No. 50-1170.

Respectfully submitted,



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